

REMARKS

Claims 49-85 are pending in the present application. In the above amendments, claims 1-8 and 21-48 have been canceled, and new claims 49-85 have been added.

Applicant respectfully responds to this Office Action.

New Claims

Support for new claims 25-44 may be located in Figures 1 and 2, in original claims 1-11, and in the specification at page 3, lines 3-5; page 4, line 36 – page 5, line 17; page 6, lines 4-5 and 9-22; and page 7, line 26 – page 8, line 26.

Applicant respectfully asserts that new claims 49-85 recite patentable matter over the U.S. Patent No. 6,381,741 issued to Shaw.

More specifically, claim 49 recites, “determining the authentication status of the computing device, wherein the computing device’s authentication status is positive if at least one piece of the computing device’s resident software has been authenticated, and the computing device’s authentication status is negative if none of the computing device’s resident software has been authenticated.” In contrast, the Shaw patent discloses a first indicator (RunDownloader) which, if set, causes a downloader to run an upgrade of application code, and a second indicator (TrustData) which, if not set, creates an assumption that data in write memory is corrupt. See, column 3, lines 45-50 and 55-58. Applicant asserts that both an indicator to cause an upgrade, and an indicator that data in memory may be corrupt, fails to disclose or suggest determining an authentication status of a computing device, as recited in claim 49.

Further, claim 49 recites, “changing the computing device’s authentication status to positive and loading the available software if the computing device’s authentication status is determined to be negative and the resident software’s authentication status is determined to be positive.” As already quoted above, claim 49 also recites that the computing device’s authentication status is negative if none of the computing device’s resident software has been authenticated. The Shaw patent fails to disclose or suggest changing the computing device’s authentication status to positive and loading the available software under the recited conditions.

Accordingly, claim 49 cites patentable advances over the Shaw patent, and should be allowed. For similar reasons, dependent claims 50-58 should be allowed. Also, claims 59-85 are computing device and computer-readable medium claims that recite features similar to those feature recited in method claims 49-58. Accordingly, claim 59-85 also should be allowed.

Regarding patentable subject matter concerns under 35 U.S.C. §101, claims 77-85 are directed to a “computing device,” which computing device is statutory subject matter. See, 35 U.S.C. §101. Claims 69-76 are directed to a “computer-readable medium.” “[A] claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.” (emphasis added.) Quoted from: “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility”,

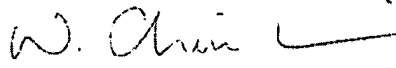
http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf, page 53. Also quoted from, MPEP 2106.01 I. , page 2100-18.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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